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October 2, 2012

Clerk of the Court
Ingham County Circuit Court
Veterans Memorial Courthouse
P.O. Box 40771
Lansing, MI 48901-7971

Re: Commissioner of Insurance v Michigan Health Maintenance Organization Plans
Civil Action No.: 98 88265 CR
Our File No.: 8350-01000

Dear Clerk:

Enclosed please find Liquidator's Verified Petition to Approve the Actions of the Liquidator, Discharge the Liquidator, Terminate Receivership, Dissolve Insurance Corporation, to Close the Case and for Related Relief in the above-referenced matter. Please file same in your usual manner.

Thank you for your assistance with this matter. Please call with any questions.

Sincerely yours,

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.


Amy S. Applin

ASA/amo
Enclosure

cc: Parties Listed on Proof of Mailing (w/enclosure)
Mr. James Gerber, Deputy Liquidator (w/enclosure)

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

R. KEVIN CLINTON, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
REGULATION FOR THE STATE OF MICHIGAN,

Petitioner,

File No. 98-88265-CR

vs

Honorable Clinton Canady, III

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

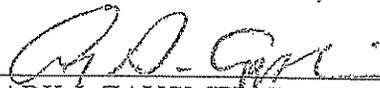
Respondent.

MARK J. ZAUSMER (P31721)
AMY S. APPLIN (P46900)
Zausmer, Kaufman, August, Caldwell & Tayler, P.C.
Attorneys for Petitioner
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT the Liquidator's Verified Petition to Approve the Actions of the Liquidator, Discharge the Liquidator, Terminate Receivership, Dissolve Insurance Corporation, to Close the Case and for Related Relief will be held before this Honorable Court on Wednesday, November 14, 2012, at 2:30 p.m., or as soon thereafter as counsel may be heard.

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.


MARK J. ZAUSMER (P31721)
AMY S. APPLIN (P46900)
Attorneys for Petitioner
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Dated: October 2, 2012

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

R. KEVIN CLINTON, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
REGULATION FOR THE STATE OF MICHIGAN,

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MICHIGAN HEALTH MAINTENANCE
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LIQUIDATOR'S VERIFIED PETITION
TO APPROVE THE ACTIONS OF THE LIQUIDATOR,
DISCHARGE THE LIQUIDATOR, TERMINATE RECEIVERSHIP,
DISSOLVE INSURANCE CORPORATION, TO CLOSE THE CASE
AND FOR RELATED RELIEF

R. Kevin Clinton, Commissioner of the Office of Financial and Insurance Regulation, in his capacity as Liquidator of Michigan Health Maintenance Organization Plans, Inc., f/k/a OmniCare Health Plan (referred to herein as "MHMO"), through his attorneys, Zausmer, Kaufman, August, Caldwell & Tayler, P.C., consistent with MCL 500.8146(1), MCL 500.8145 and MCL 500.8120, asks the Court to enter a Final Order Approving the Actions of the Liquidator, Discharging the Liquidator, Terminating Receivership, Dissolving Corporate Existence of Insurer, Closing the Case and For Related Relief ("Final Order"). In support of this Verified Petition, the Liquidator states as follows:

HEARING

1. This Verified Petition is scheduled for hearing on November 14, 2012, at 2:30 p.m. or as soon thereafter as counsel may be heard.

GENERAL MATTERS

2. In 1998 MHMO was placed under seizure as permitted by Chapter 81 of the Insurance Code of 1956, MCL 500.8101 et seq. In July 2001, the Commissioner of the Office of Financial and Insurance Services ("OFIS") petitioned the Court for an Order of Rehabilitation. Pursuant to MCL 500.8114, the Court appointed Linda A. Watters, who was then the OFIS Commissioner, as the Rehabilitator. On September 14, 2001, the Court entered a final Order of Rehabilitation and Injunctive Relief ("Rehabilitation Order").

3. At the time it was placed in rehabilitation, MHMO was a health maintenance organization with approximately 100,000 members. Its membership was primarily located in southeast Michigan. Most of its members were recipients of health services under Medicaid.

4. In its Rehabilitation Order, the Court directed the Rehabilitator to take immediate possession of the assets of MHMO and to administer those assets under the Court's general supervision.

5. Although substantial efforts were made to rehabilitate the business, due to the continuation of the financial difficulties that resulted initially in MHMO being placed in rehabilitation, the Rehabilitator concluded that MHMO would not be eligible for a new Medicaid contract beginning October 1, 2004. The Commissioner of OFIS therefore petitioned the Court, as of September 30, 2004, for an Order of Liquidation of MHMO. Pursuant to MCR 500.8116, the Court appointed the Commissioner as Liquidator of MHMO. The Liquidation Order was entered on October 28, 2004. The Liquidation Order appointed Commissioner Linda Watters as Liquidator and James Gerber as Special Deputy Liquidator of MHMO. In anticipation of the entry of the Liquidation Order, the Court on October 14, 2004, approved the appointment of American Insurance Management ("AIM") to serve as Deputy Receiver of MHMO.

6. OFIS Commissioner Ken Ross succeeded Commissioner Watters as Liquidator beginning November 1, 2007.

7. Effective April 6, 2008, the Governor, through Executive Order 2008-02, reorganized OFIS and changed its official name to the Office of Financial and Insurance Regulation ("OFIR").

8. OFIR Commissioner R. Kevin Clinton succeeded Commissioner Ross as Liquidator beginning April 15, 2011.

9. As documented in annual court reports and, in particular, in filings with this Court dated March 30, 2010, June 21, 2010, and May 22, 2012,¹ the liquidation of MHMO has been successfully accomplished through:

- a. Implementation of a Proof of Claim process.
- b. Marshaling of assets.
- c. Settlement of various disputes.
- d. Initial distribution of assets resulting in 100% payment of Class 2, 3 and 5 claimants and 24% payment of Class 6 claimants.
- e. Further winding down of the entity including implementation of a document cataloging and storage process and court-sanctioned destruction of documents as appropriate.
- f. Release of AIM as Deputy Receiver and a transition of the management of the estate to the supervision of Deputy Receiver James Gerber working with a part-time staff.
- g. A final distribution of assets amounting to an additional 5% distribution to Class 6 claimants – resulting in an overall recovery for Class 6 claimants of 29%.

10. By this Verified Petition, the Liquidator seeks generally to provide for the administrative items to be accomplished in connection with final closure of the Receivership, to terminate the Receivership, close the case, and discharge the Receiver. More specifically, among other things, the Liquidator, through this Petition, seeks the following:

¹ For the Court's information and convenience, copies of the March 2010 Court Report and of the May 22, 2012 Petition for Approval of Amended Plan of Final Distribution, which together provide an extensive history of the Receivership activities, are attached hereto (without their exhibits) as Exhibits A and B.

- a. Confirmation of arrangements for and amounts pre-paid for administrative expenses related to activities that will take place following the requested closure – to include storage and destruction of documents;
- b. Dissolution of the corporate existence of MHMO;
- c. Approval of all actions taken or not taken by the Liquidator;
- d. Discharge of and release of all claims against the Liquidator;
- e. Implementation and enforcement of the bar order; and
- f. Entry of a final order terminating the Receivership and closing the case.

THE AUTHORITY OF THE LIQUIDATOR TO ACT

11. The Liquidator has acted throughout the Liquidation proceeding pursuant to authority granted him in Sections 8116 and 8117 of the Insurance Code of 1956, MCL 500.8116 and MCL 500.8117, which provide in pertinent part:

- (1) If the commissioner believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public, or would be futile, the commissioner may petition the circuit court for Ingham County for an order of liquidation. A petition under this subsection shall have the same effect as a petition under section 8117.

MCL 500.8116(1).

The commissioner may petition the circuit court for Ingham County for an order directing him or her to liquidate a domestic insurer or an alien insurer domiciled in this state on the following basis:

- (a) Any ground for an order of rehabilitation as specified in section 8112, whether or not there has been a prior order directing the rehabilitation of the insurer.
- (b) That the insurer is insolvent.

- (c) That the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the public.

MCL 500.8117.

12. The Liquidator has legal title to all of the assets of MHMO pursuant to Section 8118 of the Insurance Code of 1956, MCL 500.8118, which provides in pertinent part:

(1) An order to liquidate the business of a domestic insurer shall appoint the commissioner and his or her successors in office as liquidator and shall direct the liquidator to take possession immediately of the insurer's assets and to administer them under the court's general supervision. The liquidator shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of the circuit court and the register of deeds of the county in which its principal office or place of business is located or, in the case of real estate, with the register of deeds of the county where the property is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded which the register of deeds would have imparted.

13. The cited sections of the Insurance Code are specifically made applicable to health maintenance organizations by Section 3503 of the Insurance Code, MCL 500.3503(1), which states "All of the provisions of this act that apply to a domestic insurer authorized to issue an expense-incurred hospital, medical, or surgical policy or certificate ... apply to a health maintenance organization under this chapter unless specifically excluded, or otherwise specifically provided for under this chapter."

ADMINISTRATIVE UPDATE

14. This Court approved the Liquidator's Petition for Approval of Amended Plan of Final Distribution ("Final Distribution Petition") by Order dated July 18, 2012 (the "Final

Distribution Order”). Following the entry of the Final Distribution Order, the Receivership has taken the following actions to prepare the Receivership for final closure:

- a. Disbursements to Class 6 claimants, as approved in the Order, as follows:
 - Michigan Department of Community Health \$97,389.25
(Claim # MI06-01)
 - Michigan Office of Financial and Insurance Regulation \$1,401.02
(Claim # MI06-02)
- b. Final payment (including prepayments) of all outstanding invoices pending within the Estate, including legal, accounting and administrative expense reimbursement to the Cadillac Insurance Company Receivership Estate (“Cadillac Estate”) for administrative expenses incurred from August 1, 2010 through September 30, 2012.² This includes prepayment for legal services related to appearance for the hearing on this Petition, set for November 14, 2012.
- c. Donation of fully depreciated Dell laptop computer to Cadillac Estate.
- d. Transfer of unclaimed property, consisting of claim payment checks that have not been presented to MHMO’s bank for payment, to the State of Michigan (\$803.63) and the State of Ohio (\$68.16). This was undertaken consistent with MCL 500.8145, which provides for deposit with the state treasurer of any unclaimed funds subject to distribution that remain in the liquidator’s hands when he is ready to apply to the court for discharge. MCL 500.8145(1). If such funds are not claimed within six (6) years from the discharge of the liquidator, they shall be

² As detailed in prior reports to this Court, the MHMO Estate has been administered, since October, 2007, out of the offices maintained by the estate of another liquidating insurance company (the “Cadillac Estate”). This has permitted substantial administrative expense savings and efficiencies for both receivership estates. In preparing the final closing accounting, it was determined that the Cadillac Estate had been undercompensated by the MHMO Estate for the period from August 1, 2010, through December 31, 2011. As a result, the Receivership was under-reserved with respect to this administrative expense. This problem was able to be resolved by a combination of savings on closing accounting and legal expenses and application of the unclaimed property recovered by the Estate in May. *See* Paragraph 15 below. In addition, in the last week of September 2012, after all of the accounting exhibits for this Petition had been created, the Estate received a check in the amount of \$86.07 from MHMO’s counsel in a class action lawsuit involving the pharmaceutical Bextra. MHMO’s class action counsel advised that all class actions as to which MHMO had been a party were now closed and so this would be the final recovery of this type. Under the circumstances, the Liquidator considers this \$86.07 to be uneconomic to distribute, as provided for in MCL 800.8146(1), and has directed that these funds be transferred to the Cadillac Estate to supplement the described payment of administrative expenses. The Liquidator asks the Court to ratify his actions with respect to this belated and de minimis recovery.

considered to have been abandoned and shall escheat to the state without formal escheat proceedings and shall be deposited in the general fund of the applicable state. *Id.*

e. Closure of the Estate's bank accounts at JPMorgan Chase Bank effective October 1, 2012.

15. In early 2012, the Receivership determined that it was the correct party to collect certain unclaimed property being held by the State of Michigan Department of Treasury under the name "OmniCare." The Receivership submitted its claim form for recovery of these funds, and, as a result collected funds in the amount of \$6,624.68 in May, 2012.

16. The final Federal Income Tax Form 990, covering the period from January 1, 2012, through September 30, 2012, will be filed on or about October 4, 2012.

17. In addition, although the Court, in the Final Distribution Order, granted permission for the Liquidator to proceed with destruction of certain documents of the MHMO Estate stored at Record Center Storage in Lansing, the Liquidator has made the conservative determination to retain all of these records until closure of the Cadillac Estate, anticipated to take place in December 2013. The funds to pay for additional storage and eventual destruction of these records has been prepaid to the Cadillac Estate, which has assumed responsibility for carrying out the destruction in accordance with the Court's order.

18. Following closure of the MHMO Estate, onsite records of MHMO for 2007-2012 will be maintained at the offices of the Cadillac Estate and shipped in one lot at the closure of the Cadillac Estate's office at the Bingham Center in Bingham Farms, Michigan, anticipated to take place in December 2013. The funds to pay for additional storage and eventual destruction of these

records has been prepaid to the Cadillac Estate, which has assumed responsibility for carrying out the destruction in accordance with the Court's order.

19. One desktop computer and hard drive (fully depreciated) will be retained at the site of the Cadillac Estate offices to assist the Receivership Division Director in responding to future inquiries related to the MHMO Estate.³ This hard drive containing all claim information will be shipped to Record Center Storage in Lansing with the MHMO Estate documents described in paragraph 18 above. Estimated costs associated with retention and access to the computer, final shipping of the computer to storage in Lansing and eventual destruction, have been prepaid to the Cadillac Estate, which has assumed responsibility for carrying out storage and eventual destruction in accordance with the Court's Order.

20. The Liquidator asks that, with respect to MHMO Estate documents as to which an order permitting destruction of documents has not previously been entered, the Court authorize in its Final Order the destruction of all such documents, including computer hardware and software on which any such documents are stored, on or after the date that is FIVE YEARS after the entry date of the Final Order, absent entry of any order to the contrary prior to that date.

FINANCIAL UPDATE

21. The attached financial information includes the following, which are consistent with the activity described in the Final Distribution Petition and paragraphs 14-19 above:

EXHIBIT C MAY 1, 2012 THROUGH SEPTEMBER 30, 2012

BALANCE SHEET

³ The Estate continues to occasionally receive requests for information regarding former MHMO policies and/or members, including, for example medical lien information related to personal injury lawsuits.

INCOME STATEMENT

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

22. The final financial figures show that at closure, the MHMO Estate is insolvent in the amount of at least \$1,877,030.98.⁴

REQUEST FOR DISCHARGE OF LIQUIDATOR AND
RELEASE OF ALL CLAIMS AGAINST THE LIQUIDATOR

23. Section 8146 of the Insurance Code provides that “if all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge.” MCL 500.8146(1).

24. Section 8146 further provides that “[t]he court may grant the discharge and make any other orders ... as may be considered appropriate.” *Id.*

25. As described above, all assets of the MHMO Estate have been distributed – including in the form of pre-payments for expenses to be incurred following entry of the requested Order.

26. Consistent with the above, the Liquidator seeks an order from the Court confirming that the liquidation of MHMO has been accomplished.

⁴ This amount includes only the deficit that remains unpaid to Class 6 claimants and does not include amounts attributable to claims that were not formally adjudicated due to the known deficit.

27. The Liquidator further seeks a Final Order that the Liquidator, the Deputy Liquidator and their respective predecessors and successors, the Receivership staff, agents, assigns, accountants, counsel for the Liquidator and/or for MHMO are fully, finally and unconditionally DISCHARGED AND RELEASED from any duties, obligations and liabilities with respect to the liquidation estate of MHMO from October 28, 2004, up to and including the entry of the requested Final Order, and, if in accordance with the terms of the requested Final Order, then also for any such other actions taken in connection with carrying out the mandates of or pursuant to the requested Final Order.

REQUEST FOR COURT APPROVAL OF ALL ACTIONS
TAKEN OR NOT TAKEN BY THE LIQUIDATOR

28. In general, the Liquidator has, from the inception of the liquidation, effective October 28, 2004, taken possession of MHMO's assets, marshaled assets, compromised claims, mitigated liabilities, sought and received recovery from various individuals and entities, and administered the business of the Receivership as provided in the Insurance Code of 1956, as amended. The Liquidator has done so under this Court's general supervision.

29. The prior Liquidators, the current Liquidator, R. Kevin Clinton, and their designees have complied with this Court's directives.

30. The Liquidator has filed interim reports and accountings with the Court since the inception of this Liquidation. The Liquidator's Final Report and Accounting, filed on March 30, 2010 (**Exhibit A**), reported on the Liquidator's activities from October 1, 2005 through December 31, 2009. The Final Distribution Petition (**Exhibit B**), filed May 22, 2012, reported on the

Liquidator's activities from January 1, 2010, through April 30, 2012.⁵ This Petition includes financial reporting for the period from May 1, 2012, through September 30, 2012 (Exhibit C).

31. In addition, throughout the course of this Receivership, the Liquidator sought Court approval of all material transactions.

32. Based on all of the foregoing, the Liquidator seeks a Final Order providing that all actions taken or not taken by the Liquidator, the Deputy Liquidator, their respective predecessors and successors, the Receivership staff, agents, assigns, accountants, counsel for the Liquidator and/or for MHMO (including, without limitation, any ministerial actions taken post-closure) have been properly executed, and that such actions meet, have met or will meet the requirements of Chapter 81 of the Insurance Code, the prior orders of this Court and, in general, the law of the State of Michigan as ascertained by and reviewed by this Court from October 28, 2004, through the date of entry of the requested Final Order and, if in accordance with the terms of the requested Final Order, then also for any such other actions taken in connection with carrying out the mandates of or pursuant to the requested Final Order.

DISSOLUTION OF MHMO

33. MHMO is a domestic non-profit corporation that currently has an active status.

34. As an HMO, it was subject to liquidation under Chapter 81 of the Michigan Insurance Code. See MCL 500.3503(1).

⁵ The attached copies of Exhibits A and B do not include the financial reporting exhibits. These exhibits are on file with the Court and can be obtained from the Court or via request to the Liquidator's counsel.

35. Chapter 81 provides for the option to dissolve the corporate existence of an insurer or HMO at the time the entity is ordered liquidated. MCL 500.8120. However, no such provision was included in the Liquidation Order.

36. Section 8120 of Chapter 81 states, in part:

“If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent and may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.”

37. The Liquidator therefore asks the Court to acknowledge in its Final Order that, MHMO having been found in the Liquidation Order to be insolvent and having remained insolvent during the term of the Liquidation proceeding, the non-profit corporate entity shall be dissolved by operation of law upon the discharge of the Liquidator.

38. Such an order is consistent with § 801 of the Non-Profit Corporations Act, MCL 450.2801(2), which states that “[a] corporation whose assets have been wholly disposed of under court order in receivership or bankruptcy proceedings may be summarily dissolved by order of the court having jurisdiction of the proceedings.” Consistent with § 801(2), the Liquidator asks that the requested Final Order direct the Clerk of the Court to file a copy of the Final Order with the Director of the Corporations Division of the Bureau of Commercial Services within the Michigan Department of Licensing and Regulatory Affairs, P.O. Box 30054, Lansing, Michigan 48909.

REQUEST FOR BAR ORDER FOR ALL CLAIMS
AGAINST THE RECEIVER

39. The Liquidator also requests an order that all claims and causes of action against the Liquidator, the Deputy Liquidator, their respective predecessors and successors, the Receivership

staff, agents, assigns, accountants, counsel for the Liquidator and/or for MHMO (including, without limitation, any ministerial actions taken post-closure) for any and all actions taken or not taken on or after October 28, 2004 up to and including the entry of the Final Order shall be completely and forever barred, and that from and after entry of the Final Order the Receiver shall have no further responsibility or obligation under Chapter 81 of the Insurance Code or the laws of the state of Michigan with respect to any matter relating to the Receivership of MHMO, except as specifically set forth in the Final Order.

REQUEST FOR FINAL ORDER CLOSING ESTATE

40. The Liquidator seeks a final order, terminating the Receivership of MHMO and closing this case.

41. The Liquidator further requests that no further reports be required of the Liquidator to any further person or entity, including, but not limited to, reports to this Court and reports to OFIR, other than as specified in the Final Order.

NOTICE

42. The Liquidator has served a copy of this Verified Petition upon all persons/entities and/or their counsel who are known to have outstanding or ongoing claims, suits or controversies that affect or that are or may be affected by the Receivership proceeding.

43. The Liquidator has or shortly will post a copy of this Petition on the State of Michigan website along with the other MHMO documents previously posted there.

44. Any objection to the relief requested in this Petition must be in writing and must be filed with the Ingham County Circuit Court at 313 Kalamazoo Street, P.O. Box 40771, Lansing, Michigan 48901, and a copy must be properly served via proper U.S. Mail (First-Class) to the Liquidator's counsel: Mark J. Zausmer/Amy S. Applin, Zausmer, Kaufman, August, Caldwell & Tayler, P.C., 31700 Middlebelt Rd, Ste. 150, Farmington Hills, Michigan 48334, or other proper method of service under the Michigan Court Rules. Written objections must be *filed* with the Court, and a copy must be *received* by the Liquidator's counsel not later than one week before the scheduled hearing on the Liquidator's Petition, i.e. not later than November 7, 2012. If written objection is not filed with the Court *and* received by the Liquidator's counsel by November 7, 2012, the Liquidator will ask that *the objection will be barred as it relates to the Liquidator's Petition and the relief sought by that Petition.*

VERIFICATION

45. This Petition is verified by James Gerber, the Deputy Rehabilitator.

RELIEF REQUESTED

WHEREFORE, the Michigan Commissioner of the Office of Financial and Insurance Regulation, acting solely in his capacity as the court-appointed Liquidator of MHMO, respectfully requests entry of a final order:

- a. Granting the Liquidator's Verified Petition to Approve the Actions of the Liquidator, Discharge the Liquidator, Terminate Receivership, Dissolve Insurance Corporation, to Close the Case and For Related Relief;

- b. Approving all actions taken or not taken by the Liquidator and all actions to be taken by the Liquidator provided they are consistent with the intended actions described in this Petition;
- c. Unconditionally releasing the Liquidator and the Liquidator's past and present agents;
- d. Discharging the Liquidator and the Liquidator's agents;
- e. Barring all claims against the Liquidator;
- f. Dissolving the non-profit corporation;
- g. Terminating the Receivership;
- h. Closing the case; and
- i. Granting such other and further relief as equity requires.

Respectfully Submitted,

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.



MARK J. ZAUSMER (P31721)

AMY S. APPLIN (P46900)

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Dated: October 2, 2012

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and depositing said envelopes in the U.S. mail, in Farmington Hills, Michigan.


Angela Okun

EXHIBIT A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

KEN ROSS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
REGULATION FOR THE STATE OF MICHIGAN,

Petitioner,

File No. 98-88265-CR

vs

Hon. James R. Giddings

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Respondent.

MARK J. ZAUSMER (P31721)
AMY SITNER APPLIN (P46900)
Zausmer, Kaufman, August, Caldwell & Tayler, P.C.
Attorneys for Petitioner
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

DEPUTY LIQUIDATOR'S FINAL REPORT AND ACCOUNTING
March, 2010

The Deputy Liquidator of Michigan Health Maintenance Organization Plans, Inc. f/k/a
OmniCare Health Plan ("Michigan HMO") hereby respectfully submits his Interim Report on the
Liquidation of Michigan HMO.

I. INTRODUCTION

This report covers significant developments during the period from October 1, 2005,
through December 31, 2009. It is recommended that interested parties consult prior interim reports
in order to have a full understanding of the events occurring in the liquidation. The Deputy

Liquidator anticipates that this will be the final report to the Court prior to the filing of a Petition asking the Court to discharge the Liquidator and close the Liquidation estate.

II. OPERATIONS

A. Provider payments made in December 2006

On November 30, 2006, the Court approved the Liquidator's claims determinations and allowed disbursement of funds to pay claims. In accordance with the Court's order, the Liquidator disbursed 100% of the approved claims to class 2 creditors, \$13,302,787.88; Class 3 creditors, \$782,000.00; and class 5 creditors, \$12,420.38; and 24% to the class 6 creditors, \$623,968.57.

TOTAL DISBURSED TO ALL CREDITORS: \$14,721,176.83.

B. Expense reductions in staff and rent; move in October 2007

In mid-October 2007, Michigan HMO terminated the existing lease with The Wellness Plan and relocated to the offices of Cadillac Insurance Company, In Liquidation ("Cadillac Estate") at 30800 Telegraph Road, Suite 1705, Bingham Farms, Michigan.

All records were removed from Iron Mountain Storage Company, approximately 5,500 boxes, and shipped to Record Center Storage in Lansing, Michigan. All employees and consultants were terminated. American Insurance Management ("AIM") was released as Deputy Receiver by Order of the Court dated October 16, 2007. All equipment and telephone leases were terminated. This resulted in well over \$150,000 per month in savings to Michigan HMO.

Michigan HMO continues to occupy an office at the Cadillac Estate. All claims information was transferred onto a claims-only computer housed at the Cadillac Estate. All written and telephone inquiries continue to be handled by the estate. All accounting, as of October 2007, was transferred onto a laptop computer utilizing QuickBooks Pro 2007 for processing. All

accounting is handled in-house with the oversight of Plante-Moran. In addition, Plante-Moran monitors and prepares, as necessary, any/all tax filings.

Michigan HMO reimburses the Cadillac Estate approximately \$1,200 monthly for all administrative expenses.

C. The Liquidator has continued to aggressively marshal assets.

A summary by year follows:

- o October through December 2005: Provider refunds, subrogation and coordination of benefits, ("COB") collections of \$14,635. Provider Overpayment collections of \$2,228. **TOTAL AMOUNT COLLECTED, FOR THESE CATEGORIES, THIS TIME FRAME: \$16,893**
- o In 2006, the Liquidator collected \$76,414 in COB recoveries (provider refunds, subrogation and coordination of benefits), AIM collected an additional \$14,881 in credit balance refunds from hospitals and the Plan collected \$41,305 from drug class action suit settlements. The Liquidator also collected \$250,354 from University Physicians as part of the settlement approved by this Court on March 22, 2006. **TOTAL AMOUNT COLLECTED, FOR THESE CATEGORIES, IN 2006: \$382,954.**
- o In 2007, the Liquidator collected \$146,607 in COB recoveries, AIM collected \$3,274 in hospital credit balances and the Plan collected \$40,225 from drug class action suit settlements. Pursuant to the purchase agreement Coventry paid \$193,225 representing cross over medical claims liabilities. **TOTAL AMOUNT COLLECTED, FOR THESE CATEGORIES, IN 2007: \$383,331.**

- In 2008, the Liquidator collected \$16,527 in COB recoveries, AIM collected \$18,902 in hospital credit refunds and the Plan collected \$74,929 in class action suit settlements. In January 2008 the Liquidator received \$50,000 in stop loss reinsurance proceeds from Allianz Life Insurance Company of North America pursuant to a settlement agreement approved by this Court on January 23, 2008. **TOTAL AMOUNT COLLECTED, FOR THESE CATEGORIES, IN 2008: \$160,358.**
- In 2009, the Liquidator collected \$22,611 in COB recoveries and \$849 from AIM representing recoveries of hospital credit balances. **TOTAL AMOUNT COLLECTED, FOR THESE CATEGORIES, IN 2009: \$23,460.**

D. Second Amended Management Services Agreement

Prior to the Rehabilitation of OmniCare, the day-to-day administration of OmniCare's business was conducted by United American Health Care Corporation ("United American"), a third party administrator and affiliated company of OmniCare. During the Rehabilitation of OmniCare, as a result of allegations of wrongdoing by United American, the Rehabilitator determined to replace United American with a newly formed wholly-owned subsidiary of OmniCare, which was named OmniCare TPA, Inc. (the "TPA"). Therefore, effective November 1, 2002, OmniCare executed a Management Services Agreement ("Agreement") with the TPA. Under the Agreement, OmniCare – a non-profit corporation – paid a management fee to the TPA to manage the day-to-day administration of OmniCare. For example, all employees dedicated to OmniCare were employees of the TPA. The TPA was responsible for administering OmniCare's claims processing and administrative function. The TPA was responsible for recommending office space, furnishings and equipment, including management information systems. The TPA was

responsible for OmniCare's insurance management program, including recommending and binding appropriate coverages within guidelines approved by OmniCare. Other areas of the TPA's responsibilities included Member Services, Quality Management Services, Utilization Review, Regulatory Compliance, Provider Relations and Credentialing.

In approximately October 2004, in contemplation of the impending liquidation of OmniCare, the Deputy Rehabilitators drafted a First Amended Management Services Agreement ("First Amendment"). The First Amendment maintained the TPA as the day-to-day administrator of OmniCare, subtracted provisions that became superfluous when OmniCare ceased to function as an HMO and added provisions related to the liquidation of the company. The preparation of the First Amendment took place during a time of transition from the Deputy Rehabilitators to the new Deputy Liquidators. It later appeared that during this transition, the First Amendment may not have been made fully effective. Further, during the course of the Liquidation, the relationship of Michigan HMO and the TPA evolved to meet the mutual needs of the parties.

In light of various inconsistencies and uncertainties that appeared in the Agreement and the First Amendment, on or about February 15, 2007, the Liquidator, subject to Court approval, executed a Second Amendment to clarify the relationship of the parties and to ratify the course of dealing between the parties up to that time and going forward. The major basis for maintaining the HMO-TPA relationship provided for in the Management Services Agreement, as amended, was that the business of Michigan HMO was largely conducted through the TPA, which was completely controlled by the Liquidator. Bank accounts were maintained in the name of the TPA until July 2007. All employees of the Liquidation estate were officially employees of the TPA. Claims payment functions were conducted through the TPA. During Liquidation, however, no

management fee was paid for performance of the administrative functions, as provided in the Agreement and the Amendment. Rather, administrative functions were performed by the TPA at cost. The TPA took in funds from various sources, which it used to administer the business of the Liquidation estate, and funds were transferred from the HMO itself to the TPA for the same purpose, where necessary. The Second Amendment clarified the actual financial relationship between the parties and also clarified other house-keeping items related to the day-to-day administration of the Liquidation. The Second Amendment was approved by Order of the Court dated February 28, 2007. The overall expenditures of the TPA as compared to monetary infusions from the HMO were reconciled on an ongoing basis and were finally reconciled in October 2007 by the estate's accountants at Plante & Moran. This essentially coincided with the closure of the estate's Detroit office, termination of the remaining estate employees, release of AIM as Deputy Liquidators and transition of the estate to the current location in Bingham Farms. The Second Amendment officially expired by its terms as of December 31, 2007.

III. LEGAL ISSUES

A. Class Action Suits

Michigan HMO is participating in five outstanding drug class action suits: Bextra, Celebrex, Vioxx, Neurontin and GSK. Michigan HMO is a named Plaintiff in the Vioxx, Celebrex and Bextra cases. In addition, Michigan HMO has filed a claim for \$290,069 in the Celebrex case. All litigation is pending. The Neurontin litigation recently became active after having been on appeal for an extended period, and the Liquidator is gathering data to support a claim in that litigation estimated at approximately \$2 million.

B. University Physicians Settlement

This matter related to the claim of University Physicians Services, Inc. ("UPS"), which did business with Michigan HMO under the name Wayne State University Physicians Group ("WSUPG"), for services rendered both before and after entry of the July 30, 2001, Rehabilitation Order as to Michigan HMO. As explained below, WSUPG's pre-rehabilitation claim was not resolved prior to commencement of the Liquidation proceedings.

In approximately May/June 2001, WSUPG asserted unpaid claims against OmniCare totaling nearly \$14 million. Just prior to inception of the Rehabilitation, the parties settled these claims for a total of \$4.17 million, to be paid in two installments. The initial payment of \$2.5 million was made to WSUPG on or about July 13, 2001. Before the remaining \$1.6 million dollar payment scheduled for August 2001 could be made, OmniCare was placed in Rehabilitation on July 30, 2001.

The Rehabilitation Order required all contracted providers to continue serving OmniCare members, but – because many of the WSUPG members were not contracted with OmniCare – at the beginning of the Rehabilitation WSUPG threatened to cease serving OmniCare members. This caused serious difficulties for OmniCare. Therefore, in response to WSUPG's demand, the Rehabilitator agreed to two payments to WSUPG toward reimbursement of WSUPG's pre-rehabilitation claims. The first advance payment, in the amount of \$1.7 million, was made on or about August 24, 2001. The second advance payment, in the amount of \$450,000, was made on or about October 12, 2001. This second payment was intended to approximate the amount owed to WSUPG for the period after the settlement and before entry of the Rehabilitation Order (coinciding with the month of July 2001). Although the amount of the advance payments

approximately equaled the outstanding settlement payment of \$1.6 million dollars plus an allotment of \$450,000 for payment of claims for July 2001, it was made clear by the Rehabilitator that these amounts were an advance only and that reconciliation would eventually be made to determine the amount actually due to WSUPG.

In June 2002, the Rehabilitator filed an amended proposed Rehabilitation Plan for approval by the Court. In order to avoid preference issues stemming from last-minute settlements like that with WSUPG, the proposed Plan allowed for payment to providers of a percentage of their medical claims billed for the year prior to entry of the Rehabilitation Order. In connection with the proposed Plan, the Rehabilitator developed a complicated formula, which was explained in the documents accompanying the amended Plan. Essentially, the Rehabilitator conceptually “recaptured” claim payments for the entire year prior to the inception of the Rehabilitation, and subtracted these amounts from the amount of all claims for that same period to establish a fair and equitable liability framework. The amended plan then allowed for providers to recover a percentage of the outstanding amount owed.

In calculating WSUPG’s claim under this formula, the Rehabilitator included the settlement amount reached by WSUPG and OmniCare just prior to Rehabilitation. Because of the large payment amounts that WSUPG had received prior to rehabilitation, the calculation under the formula resulted in a proposed payment to WSUPG (assuming a 45% rate of return under the Plan) of approximately \$190,000. Given this amount, WSUPG had been overpaid – via the advances early in the Rehabilitation – by approximately \$1.9 million, which would have to be returned to the Rehabilitator.

WSUPG filed objections to the Proposed Plan on or about June 21, 2002. WSUPG argued that the Amended Plan substantially understated the amount of WSUPG's claim and asked that its claim be recalculated, taking into account additional claims that it asserted had not been recognized by the Rehabilitator in its initial calculations. The Amended Rehabilitation Plan was ultimately accepted by the Court and was implemented, for the most part. However, in an Order dated July 29, 2002, the Court instructed the Rehabilitator to continue negotiations to resolve the amount of WSUPG's claim. As a result of these further negotiations, which took place beginning in late 2002, the Rehabilitator agreed to review WSUPG's actual claims data for the pre-rehabilitation period. The resulting "reconciliation," which took over a year to complete, resulted in a report that was provided to WSUPG in approximately March 2004. WSUPG was still reviewing the results of the reconciliation when the Liquidation Order was entered in October 2004.

Following entry of the Liquidation Order, upon request of WSUPG, the Liquidation staff agreed to further review the reconciliation results. Based on this review, the Liquidation staff concluded that the figures used by the Rehabilitator to calculate WSUPG's pre-rehabilitation claim actually overstated the true value of WSUPG's claim as of the date when the Rehabilitation commenced. Thus, the settlement amount proposed in the summer of 2002 was not disadvantageous to WSUPG. Given these results, the Liquidator maintained the position that WSUPG was indebted to the Liquidation estate in the approximate amount of \$1.7 million.

As required by the Liquidation Order, WSUPG submitted Proof of Claim forms for all claims it asserted were not paid during the Rehabilitation Period from October 1, 2003 through September 30, 2004. Upon review of those forms, the Deputy Liquidators concluded that the value of WSUPG's liquidation claim was \$750,728. Following additional extensive negotiations, the

Liquidator and WSUPG reached a settlement of the dispute between them under which WSUPG's Liquidation claim in the amount of \$750,278 was offset against the amount determined to be due and owing from WSUPG, with WSUPG paying an additional \$250,354, for a total settlement value of \$1,000,632. This settlement was approved by the Court by Order dated March 22, 2006.

C. Detroit Medical Center Proof of Claim Settlement

This matter arose from a Proof of Claim ("POC") filed by the Detroit Medical Center ("DMC") in the liquidation proceedings. OmniCare, while in rehabilitation, entered into a capitated contract with DMC under which DMC was paid a "per member per month" rate to provide medical services to certain OmniCare members. DMC's POC alleged that DMC incurred a substantial loss as a result of flawed compensation calculations in the contract, which DMC contended resulted from purported bad faith or misrepresentation by OmniCare in negotiating and administering this contract. The POC contained "counts" alleging breach of contract, misrepresentation and other theories of recovery, and sought damages of more than \$36.5 million.

In connection with the hearing to establish the priority of various claims filed in the liquidation proceedings, the DMC argued that the subject POC sought only reimbursement for medical services provided by the DMC to OmniCare members and, therefore, that any amount awarded under the POC should, like other claims filed by medical providers, be categorized as a Class 2 claim. The Liquidator argued, however, that the nature of the claims stated in the POC – for breach of contract and misrepresentation, potentially involving claims of bad faith – were of a type that could be more appropriately classified as Class 5 (general creditor) claims. Following argument on this issue, the Court entered an Order dated November 8, 2005, holding in abeyance the issue of the classification to be assigned to any amount awarded under this POC.

With respect to the substance of the claim, the Deputy Liquidators conducted an extensive investigation and evaluation of the DMC's claim, following which the parties engaged in negotiation regarding the value of the claim. The Liquidator and the DMC agreed to a settlement under which the POC was approved in the amount of \$750,000 and assigned a Class 2 status. This settlement was approved by the Court in an order dated October 10, 2006, and the claim was paid consistent with the settlement as part of the December 2006 distribution described above.

D. Allianz Reinsurance Settlement

Michigan HMO asserted a claim against Allianz Life Insurance Company of North America ("Allianz") in the amount of \$74,487.93 for the reimbursement of claims submitted to Allianz by Michigan HMO pursuant to a Reinsurance Agreement between Allianz and Omnicare, Policy Number 27055-507 (the "Reinsurance Agreement"). Michigan HMO asserted that it had timely submitted notice of claims related to 2 OmniCare members and that, pursuant to the terms of the Reinsurance Agreement, Allianz was responsible to pay reinsurance for these claims directly to the Liquidator, even though Michigan HMO was in liquidation and had not yet paid the underlying claims. Allianz claimed that it was not responsible for payment of these claims because Michigan HMO Plans could not provide proof of payment within the policy term. Michigan HMO subsequently paid these claims as part of the distribution of assets of the Liquidation estate and again sought reimbursement, this time from HCC Life Insurance Company ("HCCL") as run off administrator. HCCL claimed that Allianz was not responsible for payment because the claims were not timely filed. Following extended negotiation, the Liquidator and HCCL reached a settlement of the dispute under which HCCL paid Michigan HMO \$50,000 in settlement of all

claims under the Reinsurance Agreement. This settlement was approved by Order of the Court dated January 23, 2008.

E. Balance Billing Issues

The Liquidation Order specifically prohibited medical providers from directly billing former OmniCare members for amounts not covered by OmniCare. Despite this, numerous former OmniCare members reported such “balance billing” during the Liquidation. The Liquidator was able to successfully stop providers and their collection agents from pursuing individual members, either through informal negotiations or through obtaining Show Cause and Contempt Orders from the Liquidation Court. During 2006 and 2007, the Liquidator filed 4 Petitions for Order to Show Cause against a total of 19 balance billing entities. Most matters were resolved informally following entry of Show Cause Orders, but the Liquidator did obtain one Contempt Order against 4 balance billers in 2007. In addition to ceasing collection efforts, violators were required to reimburse moneys wrongfully collected and to remove negative information inserted in former members’ credit reports. The Liquidator has not found it necessary to take legal action against any entity based on balance billing since mid-2007.

F. Provider Creditors Committee Suit

Prior to entry of the Liquidation Order, the Court approved the assignment of any causes of action possessed by OmniCare against its former controlling affiliate, United American Healthcare Corporation (“UAHC”), and related entities, to a Committee consisting of medical providers who received reduced recoveries on their pre-rehabilitation claims against the OmniCare Estate (the “Creditors Committee”). As part of this arrangement, the Liquidator contributed

\$200,000 to be used for payment of the Creditors Committee's legal expenses. The Complaint was initially filed in this Court on or about February 1, 2005. UAHC moved for a change of venue to Wayne County, and this issue was appealed to the Court of Appeals, which ruled in UAHC's favor in a published opinion dated March 29, 2007. The matter was subsequently transferred to the Wayne County Circuit Court, before the Honorable Isidore Torres. During 2007 and 2008, the matter was heavily litigated, and in connection with the litigation, both the estate itself and the Office of the Commissioner of Financial and Insurance Regulation were required to produce thousands of documents. In an effort to reduce the time and expense to the estate related to this production, the Deputy Liquidator negotiated and entered into multiple stipulated protective orders. Nevertheless, responding to the production requests required a significant effort from the Deputy Liquidator, staff and counsel well into 2009. This suit was settled in September 2009. Distribution of the proceeds among eligible provider creditors remains to be determined.

IV. FINANCIAL REPORTING

The attached financial information includes the following:

EXHIBIT A OCTOBER, NOVEMBER, DECEMBER 2005

COMBINED BALANCE SHEET AS OF 12/31/2005

INCOME STATEMENT AS OF 12/31/2005

CASH DISBURSEMENT SUMMARY
OCTOBER 1, 2005 THROUGH DECEMBER 31, 2005

CASH DISBURSEMENT DETAIL
OCTOBER 1, 2005 THROUGH DECEMBER 31, 2005

CASH RECEIPTS SUMMARY
OCTOBER 1, 2005 THROUGH DECEMBER 31, 2005

PROFESSIONAL SERVICES SUMMARY

EXHIBIT B JANUARY 1, 2006 THROUGH DECEMBER 31, 2006

BALANCE SHEET

INCOME STATEMENT

CASH DISBURSEMENT DETAIL

CASH DISBURSEMENT SUMMARY

CASH RECEIPTS SUMMARY

PROFESSIONAL SERVICES SUMMARY

EXHIBIT C JANUARY 1, 2007 THROUGH DECEMBER 31, 2007

BALANCE SHEET AS OF SEPTEMBER 30, 2007

BALANCE SHEET AS OF DECEMBER 31, 2007

PROFIT AND LOSS JANUARY THROUGH SEPTEMBER 2007

PROFIT AND LOSS OCTOBER THROUGH DECEMBER 2007

PROFIT AND LOSS JANUARY THROUGH DECEMBER 2007

CASH DISBURSEMENT SUMMARY JANUARY THROUGH
DECEMBER 2007

CASH DISBURSEMENT DETAIL JANUARY THROUGH DECEMBER
2007

CASH RECEIPTS SUMMARY JANUARY THROUGH SEPTEMBER
2007

CASH RECEIPTS SUMMARY OCTOBER THROUGH DECEMBER
2007

CASH RECEIPTS DETAIL OCTOBER THROUGH DECEMBER 2007

PROFESSIONAL SERVICES SUMMARY
JANUARY THROUGH DECEMBER 2007

EXHIBIT D JANUARY THROUGH DECEMBER 2008

BALANCE SHEET

PROFIT AND LOSS STATEMENT

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

PROFESSIONAL SERVICES SUMMARY

EXHIBIT E JANUARY THROUGH DECEMBER 2009

BALANCE SHEET

PROFIT AND LOSS STATEMENT

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

PROFESSIONAL SERVICES SUMMARY

V. CONCLUSION

All major tasks related to the Liquidation of Michigan HMO have been accomplished. The Liquidator is therefore preparing to petition this Court for termination of the Liquidation proceeding. The petition will provide for accomplishing all necessary closure items, including appropriate tax filings, arrangements related to record storage and a record destruction schedule,

escheat, as necessary, of uncollected claim payments, distribution of remaining funds to the Class 6 creditors (which are (1) the Michigan Department of Community Health and (2) the Michigan Office of Financial and Insurance Regulation) and arrangements for administration of any additional funds that may be received for the benefit of the estate, such as pay-outs on pending class action lawsuits, hospital refunds, subrogation recoveries and the like.

Respectfully submitted,

James E. Gerber
Deputy Liquidator
Michigan Health Maintenance
Organization Plans, Inc.

March 30, 2010

EXHIBIT B

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

R. KEVIN CLINTON, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE
REGULATION FOR THE STATE OF MICHIGAN,

Petitioner,

File No. 98-88265-CR

vs

Honorable Clinton Canady, III

MICHIGAN HEALTH MAINTENANCE
ORGANIZATION PLANS, INC., a
Michigan health maintenance organization,
doing business as OmniCare Health Plan,

Respondent.

MARK J. ZAUSMER (P31721)
AMY S. APPLIN (P46900)
Zausmer, Kaufman, August, Caldwell & Tayler, P.C.
Attorneys for Petitioner
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334
(248) 851-4111

LIQUIDATOR'S PETITION
TO APPROVE AMENDED PLAN OF FINAL DISTRIBUTION
AND FOR PERMISSION TO DESTROY CERTAIN ESTATE DOCUMENTS

R. Kevin Clinton, Commissioner of the Office of Financial and Insurance Regulation, in his capacity as Liquidator of Michigan Health Maintenance Organization Plans, Inc., f/k/a OmniCare Health Plan (referred to herein as "Michigan HMO"), through his attorneys, Zausmer, Kaufman, August, Caldwell & Tayler, P.C., consistent with MCL 500.8142(1), asks the Court to enter an Order Approving the Liquidator's Amended Plan of Final Distribution and for Permission to Destroy Certain Estate Documents. In support of this Petition, the Liquidator states as follows:

31700 Middlebelt Road, Suite 150, Farmington Hills, MI 48334-2374 • 721 N. Capitol, Suite 2, Lansing, MI 48906-5163
Zausmer, Kaufman, August, Caldwell & Taylor, P.C.

INTRODUCTION

On June 30, 2010, the Honorable James Giddings entered an Order Granting Liquidator's Petition to Approve Plan of Final Distribution ("Distribution Order") in this insurance company liquidation proceeding under Chapter 81 of the Michigan Insurance Code. As of that date, the Liquidator expected to pay the final distributions approved in that Order and, following a short wind-up period, file a Petition to discharge the Liquidator and terminate the liquidation estate. Shortly after entry of the Distribution Order, however, the Liquidator's accountants discovered a tax issue that the Liquidator was required to address and resolve before the final distribution of estate assets could be made. That tax issue has now been resolved, as more fully discussed below, and the Liquidator therefore, by this Petition, asks the Court to amend its prior order to provide for distribution of the remaining estate assets. The Liquidator takes this opportunity to also update the Court regarding the financials of the Michigan HMO liquidation estate and to seek permission from the Court to destroy certain estate records.

HISTORY OF INSURANCE DELINQUENCY PROCEEDING

Because this matter has been inactive for some time, and during that time Judge Giddings retired and judicial supervision of this matter was transferred to Judge Canady, the Liquidator provides a condensed narrative of significant events in this insurance delinquency proceeding:

1. On November 13, 2006, the Liquidator filed with the Court a Petition for an Order Approving the Liquidator's Claim Determinations and Allowing Disbursement of Funds to Pay Claims. The Court approved the Liquidator's Petition by Order dated November 30, 2006. As a result, the Liquidator disbursed a total of \$14,721,176.83 as follows:

- a. approved Class 2 (medical provider and other policyholder status) claims totaling \$13,302,787.88 were paid in full;
- b. an approved Class 3 (federal government) claim on behalf of the Federal Employee Health Benefits Program was paid in full in the amount of \$782,000;
- c. five approved Class 5 (general creditor) claims were paid in full in the total amount of \$12,420.38;
- d. two Class 6 (state government) claims were approved in the total amount of \$2,599,869.06, but due to limited assets, were paid at that time at the rate of 24 cents on the dollar, with the total disbursement to Class 6 at that time being \$623,968.57;
- e. Class 7, 8 and 9 claimants were advised that it was unlikely that they would receive any distribution due to lack of sufficient assets in the estate.

2. During the period from late 2006 through May 2010, the Liquidator continued working to resolve various issues, including the following:

- a. termination of equipment and telephone leases and arrangements for storage of records, and move to shared office space in Bingham Farms, Michigan, with substantial resulting savings to the estate.
- b. termination of AIM as deputy liquidators, by Court order dated October 16, 2007.
- c. participation in pharmaceutical class action suits.
- d. settlement of a reinsurance dispute, resulting in collection of \$50,000.
- e. document production related to the suit by the OmniCare Provider Creditors Committee against OmniCare's former controlling affiliate, United American Healthcare Corporation.
- f. continued marshaling of assets through collection of provider refunds, subrogation, coordination of benefits recoveries and hospital credit balance refunds – totaling over \$950,000 for years 2006 through 2009.

These activities were described in greater detail in the Deputy Liquidator's Final Report and Accounting, which was filed with this Court on or about March 30, 2010.

JUNE 2010 APPROVAL OF PLAN OF FINAL DISTRIBUTION

3. On June 21, 2010, the Liquidator filed a Petition to Approve Plan of Final Distribution ("Distribution Petition"). A copy of the Distribution Petition is attached hereto as **Exhibit A**.

4. The Distribution Petition specifically contemplated that, after the Liquidator made the distributions permitted by the Order, the Liquidator would conduct wind-up operations and would ultimately Petition the Court for a final order closing the liquidation estate and discharging the Liquidator. **Exhibit A** at page 9, fn 1. *See also* MCL 500.8146.

5. The Order granting the Distribution Petition was entered by Judge Giddings on June 30, 2010. That Order is attached hereto as **Exhibit B**.

TAX ISSUE ENCOUNTERED AND RESOLVED

6. Shortly after the entry of the June 30, 2010 Order, the Deputy Liquidator and Michigan HMO staff were advised by the accounting firm retained on behalf of Michigan HMO of a tax issue with potential impact to the liquidation estate.

7. The tax issue discovered by Michigan HMO's accounting firm appeared to potentially result in significant tax liabilities on behalf of Michigan HMO to the United States government, the State of Michigan and the City of Detroit.

8. Specifically, the tax issue involved a subsidiary company of Michigan HMO, named OmniCare TPA, Inc. ("OmniCare TPA"), which had been formed in late 2002 by the court-appointed Deputy Rehabilitators during the Rehabilitation proceedings, while OmniCare was still operating as an HMO. This company was formed by the Deputy Rehabilitators to conduct certain administrative functions that had previously been performed by OmniCare's parent company. Although Michigan HMO itself is a non-profit organization that files only

informational tax returns (Form 990), OmniCare TPA was a taxable organization. OmniCare TPA continued to operate during the Liquidation proceeding. Eventually OmniCare TPA was dissolved and its functions were handled as other liquidation functions conducted within Michigan HMO. In reviewing Michigan HMO's tax situation preparatory to final closure activities, the accountants realized that there appeared to be outstanding tax filings for OmniCare TPA due for the year 2007.

9. Prior to distributing the assets of a liquidating insurer under Chapter 81 of the Michigan Insurance Code, the Liquidator has a duty to use all reasonable efforts to determine the existence and amount of any tax liabilities of the liquidation estate incurred during the liquidation proceeding. Such taxes have priority for payment under Chapter 81 as a class 1 claim. Distributing assets of the Estate without making provision for taxes owed to the federal government, in particular, could also potentially result in personal liability for the Liquidator. 31 U.S.C. § 3713(b).

10. Resolving the tax issue affecting the estate required a significant amount of time and effort on the part of the Deputy Liquidator, liquidation staff and the outside accounting firm.

11. After major liquidation activities were completed, in late 2007, Michigan HMO's separate Detroit office was closed, thousands of boxes of records were shipped to Record Center Storage in Lansing, AIM was released as Deputy Liquidator, and the substantially-reduced estate began to be operated out of shared office space in Bingham Farms, Michigan.

12. As a result of the significant shift in operations and change in staffing that had occurred in 2007, upon the discovery of the described tax issue in mid-2010, the necessary

investigation to properly address and resolve the issue had to be conducted by staff and accountants that had no prior familiarity with the records.

13. The staff and the estate's accounting firm began a diligent effort to locate previously-filed returns, previous years' bookkeeping entries, trial balances, general ledgers, etc., to reconstruct and determine the accounting principles previously utilized by OmniCare TPA. This was a lengthy and arduous task. It was necessary to retrieve and review over 20 boxes of documents from storage. Multiple telephone conversations and correspondence between the Internal Revenue Service and accounting staff continued for approximately 18 months.

14. The review of tax issues was completed in 2011, resulting in the determination that the former subsidiary, OmniCare TPA, was in fact delinquent in tax payments to the Internal Revenue Service, the State of Michigan and the City of Detroit for the tax year ending December 31, 2007.

15. Therefore, on December 7, 2011, the tax filings and payments were made as follows:

2007 U.S. Corporation Income Tax Return	Total Tax	\$92,000.00
	<u>Penalty</u>	<u>\$ 4,295.00</u>
	TOTAL PAID	\$97,195.00
2007 Michigan Single Business Tax Return	Total Tax	\$23,470.00
	<u>Penalty</u>	<u>\$ 5,387.00</u>
	TOTAL PAID	\$28,857.00
2007 Detroit Corporation Income Tax Return	Total Tax	\$ 5,344.00

16. On April 12, 2012, the Internal Revenue Service acknowledged the Liquidator's request for the removal of penalties by applying an adjustment credit of \$44,722.99. This resulted in a total amount due in interest of \$16,225.35, which was paid to the Internal Revenue Service on April 4, 2012.

17. Michigan HMO has timely filed with the Internal Revenue Service all required Form 990 for years 2008 through 2010. An extension was filed and approved for the filing of the 2011 Form 990, which is currently being prepared. The Liquidator also filed the Form 4810, Request for Prompt Assessment, with the IRS. The IRS returned this form indicating this form is not required as Michigan HMO is a nonprofit entity. This has resolved all known tax issues within this estate.

18. The resolution, and the related delay, has required the expenditure of assets of the liquidation estate that were not contemplated at the time the Liquidator filed the Distribution Petition and when the June 30, 2010 Order was entered, thus necessitating amendment of the Plan of Distribution that was approved as of June 30, 2010 and of the related Court Order.

FINANCIAL REPORTING FOR THE PERIOD FROM 2010 TO THE PRESENT.

19. The attached financial information includes the following:

EXHIBIT C JANUARY 1, 2010 THROUGH DECEMBER 31, 2010

BALANCE SHEET

INCOME STATEMENT

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

EXHIBIT D JANUARY 1, 2011 THROUGH DECEMBER 31, 2011

BALANCE SHEET

INCOME STATEMENT

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

EXHIBIT E JANUARY THROUGH APRIL 2012

BALANCE SHEET

INCOME STATEMENT

CASH RECEIPTS SUMMARY

CASH RECEIPTS DETAIL

CASH DISBURSEMENT SUMMARY

CASH DISBURSEMENT DETAIL

REQUEST FOR AUTHORITY TO DESTROY UNNEEDED ESTATE RECORDS

20. The Liquidator is currently in possession or control of a large number of documents related to the past business of Michigan HMO.

21. Some 5269 boxes of estate documents are currently held at Record Center Storage in Lansing. Essentially all of these files have no value to Michigan HMO or the Liquidator, as the liquidation process is essentially complete. The Liquidator is aware of no outstanding controversies, claims or issues that might require reference to these files.

22. The majority of files to be destroyed relate to the business conducted prior to and during the rehabilitation, including membership and claim processing information, along with miscellaneous correspondence and financial information. The Deputy Liquidator has reviewed the list of 5109 boxes of estate documents that is attached hereto as Exhibit F,* and has determined that these documents are no longer useful.

23. The Liquidator believes that it would be in the best interest of Michigan HMO to destroy the files listed in Exhibit F at this time.

24. Chapter 81 of the Michigan Insurance Code, which governs this Liquidation proceeding, addresses the destruction of liquidation records and states:

If it appears to the commissioner that the records of an insurer in the process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records should be retained for future reference and what should be destroyed. MCL 500.8148.

25. The Liquidator anticipates incurring some expense, which has been included in the Liquidator's administrative expense reserve (see ¶ 29, *infra*), to properly dispose of these documents. Direction to dispose of the documents listed in Exhibit F will be provided to Record Center Storage management. Disposal will be handled on-site and in-house at Record Center Storage in Lansing under all guidelines currently utilized by the State of Michigan, Department of Management & Budget.

* A complete copy of Exhibit F, which is a 161-page list describing the contents of the approximately 5109 boxes, is being filed with the Court. This Exhibit will not be served as a matter of course on the service list in this matter, however. Any interested party may review Exhibit F in the Court's file, may receive an electronic version at no cost upon request to the Liquidator's counsel, or may receive a hard copy upon payment of reasonable copying costs to the estate.

THE AMENDED PROPOSED DISTRIBUTION

26. MCL 500.8142(1) requires that "Every claim in each class shall be paid in full or adequate funds retained for their payment before the members of the next class receive payment."

27. As set forth above, claims in Classes 2-5 have been paid in full, and Class 6 claims have previously received a distribution equivalent to 24% of their approved amount.

28. Because there are insufficient funds to pay Class 6 claims in their entirety, no claim with a lower priority than Class 6 is entitled to share in the distribution. Class 6 claims must be accorded equal priority and will, therefore, be paid on a pro rata basis from the funds remaining in the estate after reservation of funds sufficient to pay Class 1 administrative expenses.

29. Broken down according to the priorities established by MCL 500.8142, the claims and amended proposed distributions are summarized as follows:

Class 1	<u>Liquidator's Estimated Closing Expenses</u>	\$38,000.00
	The Liquidator has established through June 30, 2012, reserves for closing expenses, which are detailed in the attached Exhibit G . These reserves are estimates of the total costs to close the liquidation estate and should be sufficient to pay these expenses.	
Class 2	<u>Policyholder and Medical Provider claims – previously paid in full</u>	\$0.00
Class 3	<u>Federal claims – previously paid in full</u>	\$0.00
Class 4	<u>Liability claims – no such claims filed</u>	N/A
Class 5	<u>General Creditor claims – previously paid in full</u>	\$0.00

Class 6	<u>State claims – previously approved in the total amount of \$2,599,869.06 with 24% (\$623,968.57) previously paid</u>	\$98,790.27
Class 7	<u>Late Filed claims</u>	\$0.00
Class 8	<u>Surplus Notes/Premium Refund claims</u>	\$0.00
Class 9	<u>Claims of Shareholders or Owners</u>	\$0.00

30. In summary, the Liquidator's Proposed Amended Plan of Distribution is as follows:

- (1) Payment of all Class 1 claims at 100% as required by MCL 500.8141(1).
- (2) Payment to the Class 6 claims of an additional 5% by the proposed distribution of \$98,790.27, for a total recovery of 29%. Attached as **Exhibit H** is the Proposed Distribution to Class 6 Claimants.
- (3) No other claims will receive any distribution at this time.[†]

NOTICE

31. The Liquidator has served a copy of this Petition upon all persons/entities and/or their counsel who are known to have outstanding or ongoing claims, suits or controversies that affect or that are or may be affected by the Receivership proceeding.

32. The Liquidator has or shortly will post a copy of this Petition on the State of Michigan website along with the other Michigan HMO documents previously posted there.

[†] There does remain the potential for further recoveries on behalf of Michigan HMO through pending pharmaceutical class action lawsuits, and possible coordination of benefits or subrogation recoveries. However, particularly given the contingent nature of the claims, the Liquidator has concluded that they do not justify the continuation of the Receivership. The Liquidator intends to address the handling of such potential recoveries in his anticipated Petition for Termination of Receivership.

RELIEF REQUESTED

WHEREFORE, the Liquidator respectfully requests entry of an order granting the Liquidator's Petition to Approve Amended Plan of Final Distribution and authorizing the Liquidator to distribute assets of the Michigan HMO estate accordingly, and also authorizing the Liquidator to have the Michigan HMO estate documents listed in Exhibit F to this Petition destroyed in the manner described in this Petition.

Respectfully Submitted,

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.



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Dated: May 22, 2012

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and depositing said envelopes in the U.S. mail, in Farmington Hills, Michigan.

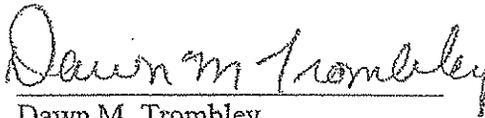

Dawn M. Trombley

EXHIBIT C

EXHIBIT

MICHIGAN HMO PLANS, INC., IN LIQUIDATION
INCOME STATEMENT
September 30, 2012

UNDERWRITING INCOME		\$0.00
<u>LESS:</u>		
OTHER UNDERWRITING EXPS INCURRED	<u>10,519.38</u>	<u>10,519.38</u>
NET UNDERWRITING GAIN (LOSS)		(10,519.38)
<u>INVESTMENT INCOME</u>		
INVESTMENT INCOME EARNED		<u>35.32</u>
<u>OTHER INCOME</u>		
MICHIGAN UNCLAIMED PROPERTY		6,686.31
<u>OTHER EXPENSE</u>		
FEDERAL, STATE AND CITY INCOME TAXES	16,225.35	16,225.35
NET INCOME (LOSS)		<u><u>(\$20,023.10)</u></u>

MICHIGAN HMO PLANS, INC. IN LIQUIDATION
STATEMENT OF RECEIVERSHIP BALANCE
September 30, 2012

RECEIVERSHIP BALANCE DECEMBER 31, 2011	(\$1,857,007.88)
NET INCOME (LOSS)	<u>(20,023.10)</u>
RECEIVERSHIP BALANCE SEPTEMBER 30, 2012	<u><u>(\$1,877,030.98)</u></u>

EXHIBIT

MICHIGAN HMO PLANS, INC., IN LIQUIDATION
BALANCE SHEET
September 30, 2012

<u>ASSETS</u>	
CASH - CHECK/SAVING	\$ 0.00
TOTAL ASSETS	\$ <u>0.00</u>
<u>CLAIMS AGAINST THE ASSETS</u>	
STATE OF MICHIGAN - O F I R	\$ 26,619.46
MICHIGAN DEPT. OF COMMUNITY HEALTH	1,850,395.75
UNCLAIMED PROPERTY PAYABLE	<u>15.77</u>
	1,877,030.98
<u>OTHER CLAIMS:</u>	
ACCRUED CLOSING COSTS	0.00
TOTAL LIABILITIES	<u>1,877,030.98</u>
RECEIVERSHIP BALANCE	<u>(1,877,030.98)</u>
TOTAL CLAIMS & RECEIVERSHIP BALANCE	\$ <u>0.00</u>

MICHIGAN HMO PLANS INC., IN LIQUIDATION (FORMERLY OMNICARE)

CASH RECEIPTS SUMMARY
MAY 2012 THROUGH SEPTEMBER 30, 2012

EXHIBIT

<u>ACCOUNT</u>	<u>AMOUNT</u>
MICHIGAN UNCLAIMED PROPERTY	\$6,624.68
	<u>\$6,624.68</u>

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Michigan HMO Plans, Inc.
CASH RECEIPTS REGISTER
May through September 2012

Type	Date	Memo	Account	Debit	Credit
Deposit	5/1/2012	Deposit unclaimed pr...	Chase - Checking Other Income	6,624.68	6,624.68
				6,624.68	6,624.68
TOTAL				6,624.68	6,624.68

MICHIGAN HMO PLANS, INC. IN LIQUIDATION (FORMERLY OMNICARE)

CASH DISBURSEMENT SUMMARY
MAY 1 THROUGH SEPTEMBER 30, 2012

EXHIBIT

<u>ACCOUNT DESCRIPTION</u>	<u>AMOUNT</u>
ACCOUNTING	\$ 4,444.25
LEGAL FEES	9,393.63
UNCLAIMED PROPERTY PAYABLE- MICH	803.63
UNCLAIMED PROPERTY PAYABLE-OHIO	68.16
ADMINISTRATIVE EXPENSE	30,690.87
CLASS 6 CLAIM NO. MI06-01; MDCH	97,389.25
CLASS 6 CLAIM NO. MI06-02; MOFIR	1,401.02
	<u>\$ 144,190.81</u>

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Michigan HMO Plans, Inc.
CASH DISBURSEMENT REGISTER
 May through September 2012

Date	Num	Name	Account	Debit	Credit
5/23/2012	1345	Plante & Moran PLLC Plante & Moran PLLC	Chase - Checking Accounting and Tax Prep	851.00	851.00
				<u>851.00</u>	<u>851.00</u>
6/5/2012	1346	Plante & Moran PLLC Plante & Moran PLLC	Chase - Checking Accounting and Tax Prep	471.00	471.00
				<u>471.00</u>	<u>471.00</u>
6/26/2012	1347	Zausmer, Kaufman, August, Caldwell Zausmer, Kaufman, August, Caldwell	Chase - Checking Legal Fees	3,731.29	3,731.29
				<u>3,731.29</u>	<u>3,731.29</u>
8/2/2012	1348	State of Mich Dept of Community He... State of Mich Dept of Community He...	Chase - Checking MI Dept. of Community ...	97,389.25	97,389.25
				<u>97,389.25</u>	<u>97,389.25</u>
8/2/2012	1349	State of Michigan OFIR State of Michigan OFIR	Chase - Checking State of Michigan OFIR	1,401.02	1,401.02
				<u>1,401.02</u>	<u>1,401.02</u>
8/6/2012	1352	Plante & Moran PLLC Plante & Moran PLLC	Chase - Checking Accounting and Tax Prep	508.25	508.25
				<u>508.25</u>	<u>508.25</u>
8/6/2012	1350	State of Mich Unclaimed Property State of Mich Unclaimed Property	Chase - Checking Unclaimed Property Pay...	803.63	803.63
				<u>803.63</u>	<u>803.63</u>
8/6/2012	1351	Ohio Division of Unclaimed Funds Ohio Division of Unclaimed Funds	Chase - Checking Unclaimed Property Pay...	68.16	68.16
				<u>68.16</u>	<u>68.16</u>
8/21/2012	1353	Zausmer, Kaufman, August, Caldwell Zausmer, Kaufman, August, Caldwell	Chase - Checking Legal Fees	762.34	762.34
				<u>762.34</u>	<u>762.34</u>
8/27/2012	1354	Plante & Moran PLLC Plante & Moran PLLC	Chase - Checking Accounting and Tax Prep	737.50	737.50
				<u>737.50</u>	<u>737.50</u>
8/27/2012	1355	Plante & Moran PLLC Plante & Moran PLLC	Chase - Checking Accrued Closing Costs	1,876.50	1,876.50
				<u>1,876.50</u>	<u>1,876.50</u>
9/11/2012	1356	Zausmer, Kaufman, August, Caldwell Zausmer, Kaufman, August, Caldwell	Chase - Checking Accrued Closing Costs	4,900.00	4,900.00
				<u>4,900.00</u>	<u>4,900.00</u>
9/13/2012	1357	Cadillac Insurance Company, In Liqui... Cadillac Insurance Company, In Liqui...	Chase - Checking Accrued Closing Costs	30,690.87	30,690.87
				<u>30,690.87</u>	<u>30,690.87</u>
TOTAL				<u>144,190.81</u>	<u>144,190.81</u>